

Remarks

In the non-final Office Action dated April 3, 2009, the following is noted: the Specification is objected to for not providing antecedent basis for the term “computer readable medium”; and claims 1-18 and 20 stand rejected under 35 U.S.C. § 103(a) over Nonaka (U.S. Patent No. 6,654,949) in view of Sakoh (U.S. Patent No. 6,704,434). In this discussion set forth below, Applicant does not acquiesce explicitly to any rejection or averment in this Office Action unless Applicant expressly indicates otherwise.

Applicant respectfully traverses the objection to the Specification because word-for-word express correspondence to the specification is not required. *See* M.P.E.P. § 2163; *Vas-Cath*, 935 F.2d at 1563, 19 USPQ2d at 1116; *Martin v. Johnson*, 454 F.2d 746, 751, 172 USPQ 391, 395 (CCPA 1972) (stating “the description need not be in *ipsis verbis* [i.e., “in the same words”] to be sufficient”).” Applicant requests that the objection be removed.

Applicant respectfully traverses the § 103(a) rejection because the cited Nonaka ‘949 reference lacks correspondence either alone or in combination with the Sakoh ‘434 reference. For example, neither of the asserted references teaches the claimed invention “as a whole” (§ 103(a)) including aspects regarding, *e.g.*, a memory controller operable to dynamically adjust a first memory allocation of the memory associated with the first content signal. In contrast, at page 3, the Office Action acknowledges that the ‘949 reference’s most relevant teaching is at Col. 4:4-58, which teaches use of a threshold value index which changes but does not adjust or allocate the any memory available for the data. This is clearly explained at Col. 5:18-41. Figure 3 of the ‘949 reference Block 525 depicts suspending further reading of the data but no change whatsoever to the data already stored/recorded on the CD by the initial allocation. As a further example, neither reference teaches aspects regarding creating a second memory allocation of the memory for a second application in response to the portability state. In contrast, the ‘949 reference teaches a memory which is a “CD” for which no allocation can be changed. Because neither reference teaches these aspects, no reasonable combination of these references can provide correspondence. As such, the § 103 rejection fails.

Applicant further traverses the § 103 rejection of claims 1-18 and 20 because the cited references teach away from the Office Action’s proposed combination. Consistent

with the recent Supreme Court decision, M.P.E.P. § 2143.01 explains the long-standing principle that a § 103 rejection cannot be maintained when the asserted modification undermines either the operation or the purpose of the main ('949) reference - the rationale being that the prior art teaches away from such a modification. *See KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1742 (2007) (“[W]hen the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be non-obvious.”). Applicant submits that the combination would render the invention inoperable because the '949 reference refers to the memory as a CD whereas the Sakoh teaching (relied upon) in the Office Action has an incompatible buffer memory; the two approaches are inoperable as asserted. Under M.P.E.P. § 2143.01, the rejection cannot be maintained.

Applicant incorporates by reference each of the arguments presented in the previous Office Action Response, as these arguments continue to be applicable. For example Applicant further notes that the rejections for many of the dependent claims have not been properly explained. For instance, Applicant's review failed to find support for correspondence to two content signals in the '949 reference. The Office Action alleges support for such limitations (*e.g.*, as found in claims 10, 18 and 20) can be found at col. 5, lines 6-64. The pertinence of these teachings is not readily apparent. Applicant requests an explanation pursuant to M.P.E.P. § 706 and 37 C.R.F. 1.104: “(t)he pertinence of each reference, if not apparent, must be clearly explained”. For example, Applicant expresses confusion regarding the Office Action's assertion that the '949 reference teaches a second memory allocated for a second application with regards to “the display of song data as discussed in col. 5, lines 6-64”. It is unclear what the Office Action believes displaying song data encompasses and a word search of the '949 Nonaka reference does not reveal any mention of displaying of song data. Applicant submits that the cited portion of the '949 reference does not teach that song data is visually presented (*i.e.*, displayed). Generally speaking, the '949 reference teaches that audio data is used to generate analog signals that represent the audio sounds (*see, e.g.*, D/A converter 9 of FIG. 1). The Office Action has not identified any memory other than memory 7 that is involved in this process. Moreover, the generation of analog signals and subsequent creation of audio sounds stem from the same content signal (*i.e.*, from optical disk 1). Thus, Applicant respectfully

submits that there is no correspondence to limitations directed to a second memory and a second content signal. These arguments have not been properly addressed as required in § 707.07(f).

In view of the remarks above, Applicant believes that each of the rejections/objections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063.

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